

Article - Health Occupations

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§12–102.

(a) (1) In this section the following terms have the meanings indicated.

(2) “In the public interest” means the dispensing of drugs or devices by a licensed dentist, physician, or podiatrist to a patient when a pharmacy is not conveniently available to the patient.

(3) “Personally preparing and dispensing” means that the licensed dentist, physician, or podiatrist:

(i) Is physically present on the premises where the prescription is filled; and

(ii) Performs a final check of the prescription before it is provided to the patient.

(b) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(c) (1) This subsection does not apply to a licensed dentist who obtains a permit from the State Board of Dental Examiners under subsection (h) of this section.

(2) This title does not prohibit:

(i) A licensed veterinarian from:

1. Personally preparing and dispensing the veterinarian’s prescriptions; or

2. Dispensing, in accordance with § 2–313(c) of the Agriculture Article, compounded nonsterile preparations or compounded sterile preparations provided by a pharmacy;

(ii) A licensed dentist, physician, or podiatrist from personally preparing and dispensing the dentist’s, physician’s, or podiatrist’s prescriptions when:

1. The dentist, physician, or podiatrist:

A. Has applied to the board of licensure in this State which licensed the dentist, physician, or podiatrist;

B. Has demonstrated to the satisfaction of that board that the dispensing of prescription drugs or devices by the dentist, physician, or podiatrist is in the public interest;

C. Has received a written permit from that board to dispense prescription drugs or devices except that a written permit is not required in order to dispense starter dosages or samples without charge; and

D. Posts a sign conspicuously positioned and readable regarding the process for resolving incorrectly filled prescriptions or includes written information regarding the process with each prescription dispensed;

2. The person for whom the drugs or devices are prescribed is a patient of the prescribing dentist, physician, or podiatrist;

3. The dentist, physician, or podiatrist does not have a substantial financial interest in a pharmacy; and

4. The dentist, physician, or podiatrist:

A. Complies with the dispensing and labeling requirements of this title;

B. Records the dispensing of the prescription drug or device on the patient's chart;

C. Allows the Office of Controlled Substances Administration to enter and inspect the dentist's, physician's, or podiatrist's office at all reasonable hours and in accordance with § 12-102.1 of this subtitle;

D. On inspection by the Office of Controlled Substances Administration, signs and dates an acknowledgment form provided by the Office of Controlled Substances Administration relating to the requirements of this section;

E. Except for starter dosages or samples without charge, provides the patient with a written prescription, maintains prescription files in accordance with § 12-403(c)(13) of this title, and maintains a separate file for Schedule II prescriptions;

F. Does not direct patients to a single pharmacist or pharmacy in accordance with § 12–403(c)(8) of this title;

G. Does not receive remuneration for referring patients to a pharmacist or pharmacy;

H. Complies with the child resistant packaging requirements regarding prescription drugs under Title 22, Subtitle 3 of the Health – General Article;

I. Complies with drug recalls;

J. Maintains biennial inventories and complies with any other federal and State record–keeping requirements relating to controlled dangerous substances;

K. Purchases prescription drugs from a pharmacy or wholesale distributor who holds a permit issued by the Board of Pharmacy, as verified by the Board of Pharmacy;

L. Annually reports to the respective board of licensure whether the dentist, physician, or podiatrist has personally prepared and dispensed prescription drugs within the previous year; and

M. Completes ten continuing education credits over a 5–year period relating to the preparing and dispensing of prescription drugs, offered by the Accreditation Council for Pharmacy Education (ACPE) or as approved by the Secretary, in consultation with each respective board of licensure, as a condition of permit renewal;

(iii) A licensed physician from dispensing a topical medication without obtaining the permit required under item (ii)1C of this paragraph or completing the continuing education required under item (ii)4M of this paragraph when the physician:

1. Otherwise complies with item (ii) of this paragraph;
and

2. Has obtained a special written permit under § 14–509 of this article;

(iv) A licensed physician who complies with the requirements of item (ii) of this paragraph from personally preparing and dispensing a prescription written by:

1. A physician assistant in accordance with a delegation agreement that complies with Title 15, Subtitle 3 of this article; or

2. A nurse practitioner who is authorized to practice under Title 8, Subtitle 3 of this article and is working with the physician in the same office setting; or

(v) A hospital-based clinic from dispensing prescriptions to its patients.

(d) This title does not prohibit:

(1) A licensed veterinarian from personally dispensing a drug or device sample to a patient of the veterinarian; or

(2) A licensed dentist, licensed physician, or licensed podiatrist from personally dispensing a drug or device sample to a patient of the licensed dentist, licensed physician, or licensed podiatrist if:

(i) The sample complies with the labeling requirements of § 12-505 of this title;

(ii) No charge is made for the sample; and

(iii) The authorized prescriber enters an appropriate record in the patient's chart.

(e) (1) This title does not prohibit:

(i) A dentist, physician, or podiatrist from administering a prescription drug or device in the course of treating a patient; or

(ii) A licensed dental hygienist from administering medication under § 4-206.4 of this article.

(2) For the purposes of paragraph (1)(i) of this subsection, "administering" means the direct introduction of a single dosage of a drug or device at a given time, whether by injection or other means, and whether in liquid, tablet, capsule, or other form.

(f) (1) This title does not prohibit a dentist, physician, or podiatrist from personally dispensing a starter dosage of a prescription drug or device to a patient of the dentist, physician, or podiatrist, provided that:

(i) The starter dosage complies with the labeling requirements of § 12–505 of this title;

(ii) No charge is made for the starter dosage; and

(iii) The dentist, physician, or podiatrist enters an appropriate record on the patient’s chart.

(2) For the purposes of paragraph (1) of this subsection, “starter dosage” means an amount of drug or device sufficient to begin therapy:

(i) Of short duration of 72 hours or less; or

(ii) Prior to obtaining a larger quantity of the drug or device to complete the therapy.

(g) This title does not prohibit a dentist, physician, or podiatrist from dispensing a prescription drug or device in the course of treating a patient:

(1) At a medical facility or clinic that is operated on a nonprofit basis;

(2) At a health center that operates on a campus of an institution of higher education; or

(3) At a public health facility, a medical facility under contract with a State or local health department, or a facility funded with public funds.

(h) This title does not prohibit a licensed dentist who obtains a permit from the State Board of Dental Examiners that allows the licensed dentist to dispense only prescription strength home fluoride products, dentin/enamel remineralizing products, and antimicrobial rinse from dispensing the product or rinse when:

(1) The product or rinse is dispensed to a patient of the licensed dentist;

(2) The licensed dentist enters an appropriate record in the patient’s chart that the product or rinse was dispensed to the patient; and

(3) The licensed dentist affixes a label on the product or rinse container that includes:

(i) The name of the patient; and

- (ii) Unless already printed on the container:
 - 1. The expiration date of the product or rinse; and
 - 2. The instructions for using the product or rinse.
- (i) This title does not apply to a person who only dispenses:
 - (1) Prescription devices that do not contain a prescription drug;
 - (2) Prescription devices within which the only prescription drug is medical oxygen;
 - (3) Durable medical equipment, as defined by the Centers for Medicare and Medicaid Services; or
 - (4) Prosthetics, orthotics, and related supplies.
- (j) This title does not prohibit a licensed dentist from dispensing a full course of antibiotics to a patient for infection control if:
 - (1) The patient is receiving pro bono dental care;
 - (2) There is no charge for the antibiotics;
 - (3) The licensed dentist enters an appropriate record of the treatment in the patient's chart; and
 - (4) The licensed dentist affixes a label on the antibiotic container that includes:
 - (i) The name of the patient; and
 - (ii) Unless already printed on the container:
 - 1. The expiration date of the antibiotic; and
 - 2. The instructions for taking the antibiotic.
- (k) This title does not limit the right of a general merchant to sell:
 - (1) Any nonprescription drug or device;
 - (2) Any commonly used household or domestic remedy; or

(3) Any farm remedy or ingredient for a spraying solution, in bulk or otherwise.

(l) The Board of Pharmacy, the Board of Dental Examiners, the Board of Physicians, and the Board of Podiatric Medical Examiners annually shall report to the Office of Controlled Substances Administration:

(1) The names and addresses of its licensees who are authorized to personally prepare and dispense prescription drugs; and

(2) The names and addresses of its licensees who have reported, in accordance with subsection (c)(2)(ii)4L of this section, that they have personally prepared and dispensed prescription drugs within the previous year.

(m) A dentist, physician, or podiatrist who fails to comply with the provisions of this section governing the dispensing of prescription drugs or devices shall:

(1) Have the dispensing permit revoked; and

(2) Be subject to disciplinary actions by the appropriate licensing board.

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